

BILL NO. 12-04

1st Reading _____

2nd Reading _____

CITY OF NEWARK
DELAWARE

ORDINANCE NO. 12 - ____

An Ordinance Amending Chapter 31, Weapons,
Code of the City of Newark, Delaware, By Adding
a New Section to Prohibit the Possession of Stun
Guns and Taser Guns Within the City of Newark

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 31, Weapons, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Add a new Section 31-5, **Stun guns and taser guns**, to read as follows:

"(a) It shall be unlawful for any person within the limits of the City to possess, wear, carry or knowingly transport a stun gun or taser gun.

(b) The term 'stun gun', as used in this section, means any battery-powered, pulsed electrical device of high voltage and low or no amperage which, when pressed against a person, can disrupt the central nervous system and cause temporary loss of voluntary muscle control of such person.

(c) The term 'taser gun', as used in this section, means any device contained in a package which permits it to be hand held, containing an electrical supply unit, and into which an expendable plastic cassette may be inserted and which operates by shooting or projecting a ball, net or dart carrying fine wires from the package to the target and which, upon hitting a person, can send out current capable of disrupting the person's nervous system in such a manner as to render the person incapable of functioning normally.

(d) This section shall not apply to any law enforcement officer while performing his or her lawful duties within the City.

(e) This section shall not apply to any person who possesses, wears, carries or transports a stun gun or taser gun on real estate that the person

owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases."

MOTION for Acceptance as First Reading on _____, 2012,

By Council Member _____.

Second Reading and Final Passage on _____, 2012.

VOTE: _____ to _____.

Mayor

Attest:

City Secretary


Approved as to Legality & Form:

City Solicitor

**CITY OF NEWARK
DELAWARE**

CITY SOLICITOR'S OFFICE

January 4, 2012

TO: Mayor and Council
FROM: Bruce C. Herron, City Solicitor 
RE: Stun Guns and Taser Guns

Enclosed is a proposed ordinance which would prohibit the possession of stun guns and taser guns within the City. I drafted the ordinance at the request of the Street Crimes Unit in the Police Department. They recently arrested an individual in possession of a stun gun. This individual had a history of using a stun gun at a local establishment. The charge was brought pursuant to a County ordinance but had to be dismissed due to questions regarding our officers' authority to enforce County ordinances.

The County ordinance prohibits the general possession of all such devices. A 2011 U.S. Supreme Court case holds that states and local governments may not generally prohibit the possession of handguns in the home for the purpose of self defense. I believe this ruling would also apply to stun guns and taser guns. I have therefore included an exception for individuals on their own property or within their own business.

BCH:av

Enc.

cc: Chief Paul Tiernan, NPD
Cpl. Greg Micolucci, NPD